

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CECILIA WILSON, as guardian for R.W., a
minor; KEVIN and CECILIA WILSON,
individually and as husband and wife;
CANDACE DAWSON, as guardian for J.D.,
a minor; and CANDACE DAWSON,
individually; JANE DOES 1-10; and JOHN
DOES 1-10,

Plaintiffs,

vs.

LONGVIEW SCHOOL DISTRICT, a
municipal corporation; MINT VALLEY
ELEMENTARY SCHOOL, a municipal
corporation; JERRY STEIN, in his individual
and official capacity; PATRICK KELLEY, in
his individual and official capacity;
SUZANNE CUSICK, in her individual and
official capacity; NANCY BEAN, in her
individual and official capacity; JANE DOES
1-10; and JOHN DOES 1-10,

Defendants.

NO.

COMPLAINT FOR DAMAGES

DEMAND FOR JURY

COME NOW Plaintiffs, by and through their undersigned attorneys for cause of action
against Defendants and allege as follows.

I. INTRODUCTION

1.1 This lawsuit arises out of Defendants' unlawful use of an isolation room to discipline elementary school children attending the Mint Valley Elementary School located in Long View, Washington. Upon information and belief, during a period of time between August 2008 and November 27, 2012, certain teachers and administrators at the Mint Valley Elementary School placed R.W. and J.D., two elementary school children, in an isolation room without parental permission or notification and in violation of R.W.'s and J.D.'s constitutional, common law, and statutory rights. Defendants engaged in an ongoing practice of locking these two children in an isolation room, a windowless chamber smaller than a closet, unsupervised, for extended periods of time while they were students at Longview School District's Mint Valley Elementary School. This harmful and unconscionable practice that was tantamount to placing elementary school age children into solitary confinement caused Plaintiffs to suffer significant damages.

1.2 Based upon information and belief, this illegal use of the isolation room was an ongoing and widespread, and involved more than just R.W. and J.D.

II. PARTIES

2.1 Kevin and Cecilia Wilson are R.W.'s parents. R.W. is a minor child, who was placed at Mint Valley Elementary School when he was five (5) years old. The Wilsons' have resided at all relevant times at 128 Julie Place, Longview, Washington 98632, an address located within the Longview School District.

2.2 Candace Dawson is J.D.'s parent. J.D. is a minor child, who was placed at Mint Valley Elementary School when he was six (6) years old. J.D. currently resides with his

1 mother at 533 2nd Avenue N.E., Marysville, Washington 98270. Candace Dawson and J.D.
2 were residents of the State of Washington at all relevant times.

3 2.3 The Longview School District is a municipal corporation organized under the
4 laws of the State of Washington and is authorized to be sued in such corporate capacity for its
5 acts and those of its agents and employees.
6

7 2.4 The Longview School District has its primary place of business in Cowlitz
8 County, Washington.

9 2.5 Plaintiffs Jane and John Does 1-10 are parents and their children who were
10 subjected to the isolation room but who have yet to be discovered.

11 2.6 At all relevant times, the Longview School District had authority over and was
12 responsible for the placement, curriculum, and disciplinary measures taken with students at
13 the Mint Valley Elementary School, including R.W. and J.D.
14

15 2.7 The Longview School District also had, at all relevant times, supervisory
16 authority over Mint Valley Elementary School, its administration, faculty and staff.

17 2.8 The Mint Valley Elementary School is a municipal corporation organized
18 under the laws of the State of Washington and is authorized to be sued in such corporate
19 capacity for its acts and those of its agents and employees.
20

21 2.9 At all relevant times, the Mint Valley Elementary School was responsible for
22 the care and education of R.W. and J.D., and it was responsible for enacting, maintaining, and
23 improving the policies, procedures, and practices with regard to the education and discipline
24 of students enrolled at Mint Valley Elementary School, including R.W. and J.D.

25 2.10 Mint Valley Elementary School also had supervisory authority over its
26 administration, faculty, and staff.

1 2.11 Suzanne Cusick was, at all relevant times, the superintendent of the Longview
2 School District. Defendant Cusick had, at all relevant times, supervisory authority over
3 Patrick Kelley, Jerry Stein, and all other members of the administration, faculty and staff at
4 Mint Valley Elementary School, including Jane and John Does 1-10, and was responsible for
5 enacting, maintaining, and improving the policies, procedures, and practices with regard to
6 student discipline and education at the Mint Valley Elementary School.
7

8 2.12 Patrick Kelley was, at all relevant times, the principal of the Mint Valley
9 Elementary School. Defendant Kelley had, at all relevant times, supervisory authority over
10 Jerry Stein, and all other members of the administration, faculty and staff at Mint Valley
11 Elementary School, including Jane and John Does 1-10, and was responsible for enacting,
12 maintaining, and improving the policies, procedures, and practices with regard to student
13 discipline and education at the Mint Valley Elementary School.
14

15 2.13 Upon information and belief, Jerry Stein was, at all relevant times, a
16 Contained Learning Center (CLC) Specialist at Mint Valley Elementary School. Defendant
17 Stein had, at all relevant times, authority under the Longview School District and the Mint
18 Valley Elementary School for enacting, maintaining, and improving classroom policies,
19 procedures, and practices relating to the education and discipline of students at Mint Valley
20 Elementary School including R.W. and J.D.
21

22 2.14 Ms. Nancy Bean was, at all relevant times, a 4th grade teacher at Mint Valley
23 Elementary School. Defendant Bean had, at all relevant times, authority under the Longview
24 School District and the Mint Valley Elementary School for enacting, maintaining, and
25 improving classroom policies, procedures, and practices relating to the education and
26 discipline of students in her classroom at Mint Valley Elementary School including R.W.

1 5.4 Seclusion through the use of an isolation room implicates the basic
2 constitutional rights of students such as freedom from incarceration, cruel and unusual
3 punishment, and loss of personal liberty.

4 5.5 The Washington State legislature has found that there is no educational or
5 therapeutic benefit to children from isolating them as part of their public school programs
6 when not necessary for immediate safety. The use of seclusion in nonemergency situations
7 poses significant physical and psychological danger to students.
8

9 **B. R.W. is restrained and forcibly placed inside the isolation room.**

10 5.6 On November 27, 2012, Patrick Kelley, the principal of Mint Valley
11 Elementary School, sent a letter to the parents of current students. The letter advised parents
12 of a purported policy and practice regarding the use of an “isolation booth” on children who
13 have Individualized Education Plan (“IEP”) and whose parents provided parental consent.
14 The letter also discussed how the booth was made the subject of Facebook posts and media
15 inquiries following a general education student’s observation of the use of the booth on
16 Monday, November 26, 2012.
17

18 5.7 Upon receiving this letter, Plaintiffs Cecilia Wilson and/or Kevin Wilson read
19 it aloud to a relative. The Wilson’s first-grade son, R.W., overheard the reading of the letter
20 and said: “It isn’t called the ‘box,’ Mom, it’s called the ‘booth.’” R.W. then explained that he
21 had been placed in the isolation room on Halloween: October 31, 2012.
22

23 5.8 R.W.’s reported that his teacher, Mrs. Barbara Sudar called Mr. Stein and
24 asked him to come and remove R.W. from the classroom because he was falling asleep on his
25 desk. Mr. Stein escorted R.W. to his special education room and had him placed at a desk. Mr.
26

1 Stein told R.W. to be quiet in the room, but got into trouble when he got up from his seat to
2 show another male student a picture of a monster that he had drawn.

3 5.9 After R.W. showed the picture to the male student, Mr. Stein grabbed R.W.
4 and forced him into the isolation room.

5 5.10 Prior to being placed into the chamber, Mr. Stein removed R.W.'s shoes.

6 5.11 Mr. Stein placed R.W. in the isolation chamber on his stomach and held him
7 down by pressing with his hands on the small of his back until he agreed to stand-up. Once
8 he stood up, he was told to stand with his back against the wall. Once he did this, the door
9 was closed and locked.
10

11 5.12 R.W. reported to his parents that he was terrified at being locked in the dark
12 room. He began screaming because he was scared and wanted his mom.

13 5.13 The Wilsons vividly remember Halloween 2012 because the school had called
14 them asking that they come pick up R.W. They went into the office, as they had done on
15 prior occasions for similar calls; however, this time was entirely different than any other time.
16 R.W. was not in the office. Once in the office, one of the staff members made a phone call
17 asking if it was alright to send the Wilson's down to retrieve their son. After the phone call,
18 the Wilsons were told where to go with the location being described to them. They walked to
19 Mr. Stein's room. Mr. Kelly was sitting in a chair holding R.W, restraining him while sitting
20 on his lap. R.W. was screaming and crying begging to be released. R.W. was
21 hyperventilating. His parents were overwhelmed.
22

23 5.14 A female teacher's assistant (identity is not known) was standing at the door
24 and greeted the Wilsons. The teacher's aid/ assistant handed Cecelia Wilson R.W's shoes. Ms.
25 Wilson asked why his socks were wet. The teacher's assistant jokingly asked R.W. if he was
26

1 “jumping in puddles?” R.W. did not answer the question, he continued crying, screaming, in a
2 state of hyperventilation.

3 5.15 Mr. Kelly released R.W. to Mr. Kevin Wilson. Mr. Wilson picked him up to
4 take him home.

5 5.16 R.W. and his parents went immediately home. His breathing eventually
6 returned to normal once he was safely home.

7 5.17 The Wilsons were never told that their son had been placed in an isolation
8 room.

9 5.18 Following October 31, 2012, R.W. no longer wanted to go to school. He
10 claimed that he was sick to his parents. The school officials called the Wilsons on a number of
11 occasions after October 31st advising them that they needed to come and pick R.W. up from
12 school.

13 5.19 Approximately, a week later, the Wilsons were called to come and pick-up
14 R.W. When they arrived at the school, they were taken into Mr. Kelly’s office. Upon entering
15 his office, the Wilson’s witnessed Mr. Kelly restraining R.W.. Mr. Kelly advised the Wilsons
16 that he was licensed to restrain children and “knew what he was doing.” Once they walked
17 into the room, Mr. Kelly released R.W. R.W. then hid under the table.

18 5.20 The Wilsons were traumatized by watching their son restrained against his
19 will. The Wilsons only recall seeing R.W. restrained by Mr. Kelly on the two occasions. They
20 had never given the school permission to restrain their son or put him in an isolation room.

21 5.21 Immediately following R.W.’s disclosure that he had been placed in the
22 isolation room as discussed above, the Wilsons called the school. Mr. Kelly called back
23 immediately. While on the phone, Mr. Kelly stated that he “had no knowledge” of the
24
25
26

1 isolation room being used on R.W., but that he would check into the matter and call them
2 back.

3 5.22 During a meeting on November 28, 2012, Mr. Kelly stated: "I just want to let
4 you know they asked me if they could put him in the box, and I told them absolutely not. It
5 was not right for him. I told them no, but they did it anyway." He further stated: "They
6 should not have done it."

7
8 5.23 During this meeting, the Wilsons requested an opportunity to view the
9 isolation room. Mr. Kelly agreed but then proceeded to merely draw a picture of the isolation
10 room, going on to say that he was late for a meeting. He quickly shook their hands and left.
11 The Wilsons did not get to see the isolation room that day.

12 5.24 R.W. reports that he was placed in the "isolation booth" on multiple occasions
13 beginning sometime in September 2012 and up until his parents received Mr. Kelly's
14 November 27, 2012 letter.
15

16 5.25 In addition to occasions involving the isolation room, R.W. was restrained in
17 the presence and out of the presence of his parents on multiple occasions by school personnel.

18 5.26 Following the illegal use of the isolation room on R.W., R.W. experienced an
19 aggravation of his undiagnosed disabilities, an increase in his disability-related behaviors and
20 symptoms, and significantly increased emotional distress. The Wilsons noticed the changes
21 in their son's behavior sometime during October 2012. They are unaware of how many times
22 R.W. was forcibly restrained without their knowledge or consent. They began receiving
23 frequent calls requesting that he be picked up as he was "sick," and on occasion "out of
24 control." At home, R.W. exhibited extreme anxiety over the mention of school. He became
25 fearful of being left alone, to the point that he would follow his mom into the bathroom. He
26

1 began having trouble going to sleep and reported nightmares. He would tell his parents and
2 his teachers that he was too sick to go to school. Although the Wilsons did not know about the
3 use of the isolation room at the time, in retrospect, these crises occurred after R.W. was forced
4 into the isolation room.

5
6 5.27 On December 19, 2012, Mr. Kelley had “Laura” call and leave the following
7 message: “Hi this is Laura. I am calling from Mint Valley and I was just calling uh...Mr.
8 Kelley said he would like R.W. to come to come in and meet with a psychologist around noon
9 and gather information. So if you could, give us a call back.”

10
11 5.28 R.W. did not have an IEP, and Plaintiffs Cecilia Wilson and Kevin Wilson are
12 informed and believe that this communication from Mint Valley school officials was an effort
13 to classify R.W. as covered by the Individuals with Disabilities Education Act after the fact.

14
15 5.29 The Wilson’s made arrangements for R.W. to receive counseling with Dr.
16 Trudy Iredale with Northwest Psychological Resources on January 18, 2013. Dr. Iredale
17 diagnosed R.W. with Posttraumatic Stress Disorder because he was experiencing symptoms
18 consistent with trauma following being physically restrained and placed in an isolation room.
19 He was also given a diagnosis of Encopresis (involuntary defecation, especially associated
20 with emotional disturbance or psychiatric disorder), Secondary, directly related to the
21 traumatic incidents. Prior to the trauma caused by R.W.’s placement in the isolation room
22 and forcible restraint, R.W. was fully potty-trained. Dr. Iredale characterized his condition as
23 severe enough to prevent him from attending school for the remainder of the school year.

24
25 5.30 R.W. is still not attending school.
26

1 5.31 R.W. has suffered, and continues to suffer, a great deal of emotional and
2 physical distress which has exacerbated an existing condition. He is currently seeing a
3 medical practitioner to help him overcome his continued anxiety and distrust issues.

4 5.32 The Wilsons are also suffering extreme mental suffering and emotional
5 distress.
6

7 **C. J.D. is forcibly placed in the isolation box and bullied excessively.**

8 5.33 J.D. is currently sixteen (16) years old and a tenth grade student at Lake
9 Stevens High School in Lake Stevens, Washington, within the Lake Stevens School District.
10 His mother Candace Dawson did not receive a copy of Mr. Kelly's November 27 letter,
11 presumably because J.D. was not then a student at Mint Valley Elementary School. Instead,
12 Ms. Dawson was alerted to the use of the isolation room through a Facebook posting on or
13 after 11/27/2012.
14

15 5.34 A parent posted photographs of the isolation room, and Ms. Dawson's sister,
16 Melissa Miksch, saw the photographs. Mrs. Miksch showed the pictures to Ms. Dawson and
17 asked if she knew anything about the isolation room. Ms. Dawson recognized the brick work
18 around the isolation room as belonging to that of Mint Valley Elementary.

19 5.35 Ms. Dawson showed J.D. a picture of the isolation room with the door shut and
20 asked him what the photo depicted. J.D. shuffled his feet and asked how she had the photo.
21 Ms. Dawson assured J.D. that he did not need to know why or how they had the photo, only
22 whether he knew what it was.
23

24 5.36 J.D. replied: "It's the naughty room. It is where the teachers put you if you are
25 being bad." He continued, "The teacher who puts you in the room gives you a little bench to
26 sit on and closes the door and locks it."

1 5.37 Following J.D.'s description of the isolation room and its use, Ms. Dawson
2 asked her son when he saw the isolation room, assuming that he had not been placed inside
3 the box. He answered, "The 4th grade. Ms. Bean put me in there because of the cupcake."

4 5.38 Plaintiff J.D. has disabilities. He was diagnosed with ADHD while in
5 preschool and started medication the same year. In second grade, J.D. began struggling with
6 stuttering and stammering when trying to defend himself against bullying by other students.
7

8 5.39 During J.D.'s Third Grade year in 2008-2009, the bullying worsened. Because
9 J.D. was having such a rough time at school, Ms. Dawson attempted to transfer her son to
10 another school in the district, but her request was denied.

11 5.40 J.D.'s Fourth Grade year in 2009-2010 was the worst year of his academic
12 career until that point because he was constantly bullied. Three boys were primarily
13 responsible for the bullying, and they routinely bullied J.D. without any consequences for
14 their conduct, leaving J.D. feeling angry, frustrated, and confused. The bullying included
15 pulling his chair out from underneath him, taking things out of his desk, choking him in the
16 breezeway on two occasions, constant name calling, and the initiation of a game called "spark
17 plug."
18

19 5.41 Spark plug is a "game" that was started by the three students who targeted J.D.
20 The entirety of the "game" is someone walks up behind you and says "spark plug." The
21 person then takes their binder, book, or whatever object they may be holding at the time and
22 strikes the person in the front in the bottom with that object. The striker walks away laughing,
23 while the recipient is left feeling hurt and violated.
24

25 5.42 J.D. was bullied throughout his fourth grade year 2009-2010, not just by
26 students, but also by staff as well. J.D.'s teacher that year, Ms. Bean, did not intervene even

1 though the bullying was often done right in front of her. Instead, Ms. Bean was
2 condescending and belittling to J.D.

3 5.43 Although J.D. was choked twice, Ms. Dawson never received a phone call or a
4 letter advising her that bullies were choking him. When J.D. told her about the first choking
5 incident, she called the school to check into her son's allegations. School officials confirmed
6 J.D.'s report. However, she was advised by staff, including Mr. Kelley, that there was
7 nothing that could be done. A short time went by and it happened again. This time when Ms.
8 Dawson contacted the school, she was advised that "the other boy had issues and that they
9 were dealing with it" and that she needed to let the school handle the situation. They also
10 advised her that if they felt like she needed to know something, they would let her know.
11

12 5.44 Sometime during the spring of 2010, the cupcake incident occurred. A fellow
13 classmate was celebrating a birthday by bringing cupcakes for the entire class. Ms. Bean had
14 passed out the cupcakes to the students, including J.D. While eating the cupcake, he got
15 frosting on his face. According to J.D., Ms. Bean responded to the slight mess by crumpling
16 up his unopened lunch and throwing it in the garbage. This unreasonable conduct by his
17 teacher, as well as the fact that he would have no more food until he got home, upset J.D. At
18 this point, Ms. Bean required J.D. to go into the isolation room.
19

20 5.45 After the cupcake incident, J.D. was forcibly placed in the isolation chamber
21 about four to five more times during the 2009-2010 school year. He recalls once having to go
22 to the bathroom so badly that he screamed: "I have to go to pee, really, really bad." He had to
23 bang on the door with his elbows to get someone to hear his request. After he received the
24 hall pass, he stated that he had to run through the halls because he had to go to the bathroom
25 so badly.
26

1 5.46 By his Fifth Grade year, Ms. Dawson observed that her son did not seem to
2 trust staff, and J.D. experienced increased disability-related behaviors. J.D. began weekly
3 counseling sessions to deal with his depression and increased levels of anxiety. J.D. had been
4 previously diagnosed with Attention Deficit Hyperactivity Disorder. After being placed in the
5 isolation room on multiple occasions, J.D. required increased ADHD medications to treat
6 behaviors and mood swings. While J.D. did not have an IEP in place at the time he was
7 placed in the isolation room during his fourth grade year, by his fifth grade year, an IEP was
8 also required to accommodate J.D. for the increased disruption in his education as a result of
9 being placed in the isolation room.
10

11 5.47 On November 30, 2012, Ms. Dawson took J.D. to a psychiatrist, Dr. Nawar
12 Alnaquib for evaluation regarding the impact the use of the isolation chamber had on him and
13 to discuss the ongoing anxiety and depression he has dealt with since the 2009-2010 school
14 year. When Dr. Alnaquib asked how being in the room made him feel, he told her that it
15 made him scared. He further stated that he would beat on the walls and door trying to knock
16 it down so that he could escape.
17

18 5.48 J.D. has suffered, and continues to suffer, a great deal of emotional and
19 physical distress which has exacerbated an existing condition. He is currently seeing a
20 medical practitioner to help him overcome his continued anxiety and distrust issues.
21

22 5.49 Candace Dawson is also suffering extreme mental suffering and emotional
23 distress.
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25
26

VI. CAUSES OF ACTION

A. Violations of Civil Rights Under 42 U.S.C. § 1983 – Fourth Amendment and Fourteenth Amendment– Unlawful Seizure

6.1 Plaintiffs re-allege and incorporate herein the preceding paragraphs of this Complaint as through set forth in full.

6.2 At all material times, Defendants were acting under color of law.

6.3 The U.S. Constitution protects Plaintiffs R.W. and J.D. against unreasonable seizures and excessive force.

6.4 By restraining R.W. and J.D., and then locking them inside a closet-like room for long and indeterminate periods of time as a form of punishment, Defendants violated their Fourth and Fourteenth Amendment rights to be free from an unreasonable seizure.

6.5 By engaging in the acts described herein, Defendants, acting under color of law and with deliberate indifference, violated the Plaintiffs' rights under the U.S. Constitution to be free from unreasonable seizures and excessive force.

6.6 The rights of R.W. and J.D. to be free from unreasonable seizures as described herein was clearly established in law at the time of the incidents alleged.

B. Violations of Civil Rights Under 42 U.S.C. § 1983 – Fourth Amendment – Failing to Adequately Train and/or Supervise

6.7 Plaintiffs re-allege and incorporate herein the preceding paragraphs of this Complaint as through set forth in full.

6.8 At all material times, Defendants were acting under color of law.

6.9 R.W. and J.D., like all United States citizens, have a constitutional right to be free from Defendants' unconstitutional supervisory inaction or action under the Fourth Amendment to the United States Constitution.

1 6.10 Defendants were deliberately indifferent to R.W.'s and J.D.'s civil rights by
2 failing to adequately train, monitor, or supervise Defendants Kelly, Stein, Bean, Jane Does 1-
3 10 and John Does 1-10 in their use of the isolation box, which was clearly a violation of
4 R.W.'s and J.D.'s civil rights.

5 6.11 Defendants showed a deliberate indifference to the rights of R.W. and J.D. by
6 failing to promulgate a policy, procedure, or practice to properly train and to prevent
7 Defendants' tortious and unconscionable mistreatment against R.W. and J.D. that occurred in
8 this case.

9 6.12 Defendants either knew or should have known that R.W. and J.D. were being
10 mistreated and that Defendants locking them in the isolation box for extended and
11 indeterminate periods of time was unnecessarily dangerous, reckless, without regard to the
12 consequences, and without regard the rights and safety of others. Despite having such
13 knowledge, Defendant acquiesced in the constitutional deprivation by allowing its agents to
14 lock R.W. and J.D. in a windowless closet-like room for long and indeterminate periods of
15 time.

16 6.13 As result of their deliberate indifference, Defendants failed to properly act in
17 ensuring that Defendant Kelly, Stein, and Bean were properly trained and/or supervised,
18 thereby needlessly violating R.W.'s and J.D.'s Fourth Amendment rights.

19 **C. Violations of Civil Rights Under 42 U.S.C. § 1983 – Fourth Amendment –**
20 **Unconstitutional Policy**

21 6.14 Plaintiffs re-allege and incorporate herein the preceding paragraphs of this
22 Complaint as through set forth in full.

23 6.15 At all material times, Defendants were acting under color of law.

1 6.16 R.W. and J.D., like all United States citizens, have a constitutional right to be
2 free from unconstitutional policies under the Fourth Amendment to the United States
3 Constitution.

4 6.17 Defendants committed a constitutional violation by enacting policies,
5 procedures, or practices that resulted in Defendants repeatedly locking R.W. and J.D. into
6 closet-like room for long and indeterminate periods of time.

7
8 6.18 Defendants' committed a constitutional violation by enacting policies,
9 procedures, or practices that resulted in Defendants Kelly, Stein, and Bean repeatedly
10 confining R.W. and J.D. within a locked and windowless closet-like room for long and
11 indeterminate periods of time without any written informed parental consent or parental
12 notification as required by law.

13
14 6.19 The policies, procedures, or practices that Defendants enacted resulted in
15 unreasonable punishment toward R.W. and J.D. that was not tailored to meeting their needs.
16 As a result, R.W.'s and J.D.'s constitutional right to be free from unconstitutional policies was
17 violated.

18 **D. Violations of Civil Rights Under 42 U.S.C. § 1983 – Fourteenth Amendment –**
19 **Substantive Due Process**

20 6.20 Plaintiffs re-allege and incorporate herein the preceding paragraphs of this
21 Complaint as through set forth in full.

22 6.21 At all material times, Defendants were acting under color of law.

23 6.22 R.W. and J.D., like all United States citizens, have a constitutional right to
24 substantive due process under the Fourteenth Amendment to the United States Constitution.
25
26

1 6.23 Restraining R.W. and J.D. and locking them inside a closet-like room for long
2 periods of time as punishment was severe and disproportionate to the behavior need present
3 and therefore shocking to the conscience.

4 6.24 As result of Defendants' conduct, R.W.'s and J.D.'s fundamental liberties were
5 denied.

6
7 **E. Washington Constitutional Law**

8 6.25 Plaintiffs re-allege and incorporate herein the preceding paragraphs of this
9 Complaint as through set forth in full.

10 6.26 R.W. and J.D. as children of citizens of the state of Washington and residing
11 within the state borders, had a constitutional right to an education free of unreasonable
12 interference from school district officials.

13 6.27 By restraining R.W. and J.D., and then locking them inside a closet-like room
14 for long and indeterminate periods of time as a form of punishment, Defendants violated their
15 right to equal access to their education without unreasonable restraint and isolation in
16 violation of the Washington State Constitution Article IX sec. 1.

17
18 **F. Washington Common Law – Negligence**

19 6.28 Plaintiffs re-allege and incorporate herein the preceding paragraphs of this
20 Complaint as through set forth in full.

21 6.29 Defendants have a duty to exercise reasonable care to avoid from harming all
22 foreseeable plaintiffs. Defendants have a duty to exercise reasonable care in the hiring,
23 training, and supervision of their employees and agents. Defendants have a duty to use
24 reasonable care in administering discipline to students, with whom they have a special
25 relationship.
26

1 6.30 Defendants breached their duties by subjecting R.W. and J.D. to unnecessary
2 and inhumane punishment. Defendants' act of repeatedly restraining, confining, and/or
3 allowing others under their control and supervision to confine, R.W. and J.D. to the closet-like
4 room for long indeterminate periods of time was unreasonable and breached the standard of
5 care.

6 6.31 Defendants' acts of hiring, retaining, failing to supervise, or failing to train
7 Defendants Kelly, Stein, Bean, and Jane and John Does 1-10 was unreasonable and breached
8 the standard of care.

9 6.32 As a proximate result of Defendants' negligence, Plaintiffs have suffered
10 significant mental, emotional, and cognitive damages, as well as special damages.

11
12 **G. Washington Common Law – Outrage**

13 6.33 Plaintiffs re-allege and incorporate herein the preceding paragraphs of this
14 Complaint as through set forth in full.

15 6.34 R.W. and J.D. were vulnerable elementary school aged children at the time
16 they were locked in the isolation room by the defendants. Nevertheless, Defendants chose to
17 make R.W. and J.D. suffer by locking them inside a closet-like room, in an attempt to "break"
18 him.

19 6.35 Defendants' acts and omissions were so outrageous as to shock the conscience
20 of a reasonable person in society. Defendants' actions were so unreasonable, cruel, and
21 unusual as to amount to actionable outrage. These acts proximately caused R.W. and J.D. to
22 suffer significant mental, emotional, and cognitive distress, as well as special damages.

H. Loss of Consortium

6.36 As a direct and proximate cause of Defendants' negligence, Mr. and Mrs. Wilson have suffered a continuing injury to the parent-child relationship, including the loss of services, loss of love and companionship of R.W.

6.37 As a direct and proximate result of Defendants' negligence, R.W. has suffered a continuing injury to the parent-child relationship, including the loss of services, loss of love and companionship.

6.38 As a direct and proximate cause of Defendants' negligence, Mr. and Mrs. Dawson have suffered a continuing injury to the parent-child relationship, including the loss of services, loss of love and companionship of J.D.

6.39 As a direct and proximate result of Defendants' negligence, J.D. has suffered a continuing injury to the parent-child relationship, including the loss of services, loss of love and companionship.

VII. PRAYER FOR RELIEF

7.1 Plaintiffs seek general damages for extreme mental suffering and emotional distress, as well as special damages, in an amount to be proven at trial, all of which were directly and proximately caused by Defendants' acts and omissions.

7.2 Plaintiffs seek compensatory, punitive, and all other forms of damages available under 42 U.S.C. § 1983 for violations of R.W.'s and J.D.'s civil rights.

7.3 Plaintiffs seek reasonable costs and attorney fees incurred in prosecuting this matter.

7.4 Plaintiffs seek declaratory relief and ask for a ruling declaring that the policy, procedure, or practice of placing R.W., J.D., and other similarly situated students, in a locked

1 isolation room for a long period of time, without supervision or communication, constituted a
2 tortious and unconstitutional act, depriving R.W. and J.D. of their rights under the Fourth and
3 Fourteenth Amendments to the United States Constitution

4 7.5 Plaintiffs pray for such other equitable or legal relief as the Court deems just.

5 **VIII. RESERVATION OF RIGHTS**

6 8.1 Plaintiffs reserve the right to assert additional claims as may be appropriate
7 following further investigation and discovery.
8

9 **IX. JURY DEMAND**

10 9.1 Under the Federal Rules of Civil Procedure, Plaintiffs demand that this action
11 be tried before a jury.

12 Dated this 25th day of November, 2015.

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